

## Hawaiian Gazette

EST. MODUS IN REBUS.

TUESDAY, : : FEB. 17, 1891.

By the Australia's mail, we received from the Hawaiian Consul at San Diego two poems in type-writing, handed to him by the author, J. C. Pelton, a well-known poet of that city, to be forwarded to the ADVERTISER for publication. One of these we inserted last week as an original contribution, and the other appears this morning. Both are really beautiful productions, and are credited to the author. Last week's Bulletin states that the same poem appeared in the San Francisco Bulletin of January 24. On reference to our file, we find such to be the case, though on comparison, we also find that the two versions vary considerably, in spelling, punctuation and indentation of the lines. Any poet has a perfect right to send his productions to as many papers as he chooses, and any editor receiving them has a right to publish them as original, giving full credit to the author, as we have done.

Elsewhere will be found the full charge of Judge McCully in the libel suit of D. M. Crowley vs. The Hawaiian Gazette Company. The main points of the case are stated by His Honor so clearly, and the principal evidence commented on so fully, that any reader may form a pretty correct idea of the merits of the case from a perusal of the document, which, though rather lengthy, should be attentively read, as it presents the law in relation to libel, as viewed by the Bench. The charge seems to be an impartial one to both parties in this suit, though some have remarked that it is decidedly partial to the prosecution. It may be remarked that at the opening of the case, the defense accepted the jury as it was first drawn, and made no objection to any juror after two had been challenged by the prosecution, and their places filled by others more acceptable to it. No malice was shown at the trial on the part of the ADVERTISER against the prosecutor, nor has any ever existed, and for this reason the suit should never have been brought on.

The table of rainfall for eleven months of the past year, given in another column, furnishes some of the most interesting data obtained of late years. They show the moisture of the various districts reported, and will thus serve as a guide for settlers seeking desirable localities in which to embark in agriculture or any untried industry. It is only within the past year or two that systematic efforts have been made by the Survey Bureau, to secure these data, and each year's reports ought to be more complete than the preceding. It has been suggested that the table might be improved by stating the altitude of the station and its distance from the sea or other information regarding the locality where the rainfall is taken. The Volcano House reports the heaviest fall of rain—27.41 inches in eleven months. Yet notwithstanding this great depth of nearly twenty-three feet, mud is seldom if ever seen in the immediate neighborhood of the crater, owing to the porous nature of the black sand which constitutes the soil, and the numerous fissures in the rocks and ground, through which the water passes rapidly till it reaches the internal fires, in the activity of which it undoubtedly serves as a stimulus.

## THE DISCOVERY OF THE COLUMBIA RIVER.

The attention of the public of Washington State, and indeed of all the Northwest of the Union, is called by the Hon. Jas. G. Swan to the approach of the one-hundredth anniversary of an event which has proved of vast importance to the westward extension of the States, and, with the acquisition of California, has helped to complete the magnificent Pacific sea board of which Americans are justly proud. This event was the discovery of the Columbia River on May 11th, 1792, by Capt. Gray

of Boston in the American ship Columbia of the same port.

Mr. or Judge Swan, who is Hawaiian Consul at Port Townsend, in a long and most interesting contribution to the Seattle Post-Intelligencer gives the history of two North Pacific cruises of Capt. Gray, in the first of which he carried the American flag round the world for the first time, having sailed from Boston by Cape Horn for the N.W. coast, and thence to Canton, calling at the Sandwich Islands for refreshments and provisions. From Canton, where Capt. Gray sold his furs and purchased with the proceeds a cargo of tea, the Columbia returned to Boston by way of the Cape of Good Hope, thus completing the circumnavigation of the globe.

This priority of discovery of Gray's harbor, which, however, he named Bullfinch's, after the chief of the merchants who fitted out the expedition, and of the Columbia River, "gave to the United States," says Mr. Swan, "the western empires of Oregon and Washington, over which, but for Gray's discovery the British flag would now be flying, and we would be but a province of Canada, like British Columbia."

Curiously enough, as Mr. Swan quotes from Vancouver's journal, on the 29th of April the English navigator "discovered a sail to the Westward, standing inshore. This was a great novelty, not having seen any vessel but our consort during the last eight months."

"She soon hoisted American colors and fired a gun to leeward. At 6 o'clock we spoke to her. She proved to be the ship Columbia commanded by Captain Robert Gray, belonging to Boston, whence she had been absent nineteen months." Vancouver had then just recently attempted the entrance to the river but found the breakers impassable, and only twelve days after the meeting of the two ships Gray ran through the breakers with all sail set and anchored in "a large river of fresh water" ten miles above its mouth. Here he remained three days engaged in trading and filling her casks with water and then sailed some fourteen miles up the river along its northern shore, when he found he could go no farther having taken the wrong channel. During a week he made several attempts to get out of the river but did not succeed until May the 11th. Gray named the extremity of the southern sand bank Point Adams and the northern Cape Hancock, not knowing then that the latter had been named Cape Disappointment by the English Captain Mearns, in token of his unsuccessful search for the river.

Gray had been a long time trading and exploring along the coasts of Vancouver's and Queen Charlotte's islands and had built a schooner for the purpose which he named the Enterprise. On one occasion when preparing for sea he was visited by a couple of chiefs with a number of their followers between whom and a Hawaiian seaman on board Gray thought there appeared to be some understanding; he questioned the Hawaiian who at length informed him that the Indians had formed a plan for seizing the vessel, and murdering the crew and had promised to spare his life and make him a chief if he would aid them by wetting the priming of all the guns at a particular time. Thus warned by the Hawaiian they were on their guard and their lives and the vessel were saved.

When Gray first returned from the North West he called, as has been stated, at these islands, and carried to Boston as a passenger the "crown-prince," (?) "son of King Kamehameha, who was received with great honor by Governor John Hancock, and on his return to his native isle," says Mr. Swan, "a friendship sprang up between the natives and the Americans, which, by the sagacity and energy of the American missionaries and merchants has been cemented into a fraternal bond of amity and commerce."

The Spaniards of those days had very grand notions of territorial rights over the open sea. The Columbia on her way out having rounded Cape Horn, put into Juan Fernandez to repair. The Govern-

nor received the Americans with great kindness and aided them in refitting their vessel, and allowed them to go on their way in peace. For this he was recalled, placed under arrest, and the Viceroy expressed his "surprise and displeasure" at the conduct of the Commandant of Juan Fernandez in not having seized the ship under the Royal Ordinance of 1692 which provided that any foreign vessel in these seas (the Pacific) without a license from the Court of Spain was to be treated as an enemy, because no other had, or ought to have, in those seas any territories making it necessary for its vessels to pass round Cape Horn or through Magellan's Straits!! The authorities of Chile and Peru were cautioned to keep a sharp look out for the intruder, and a ship was actually sent out from Callao to track or intercept her! "Tempora mutantur."

## AN EXTRAORDINARY PROCEEDING.

There has been no phase of the Behring Sea dispute so remarkable as that developed in the United States Supreme Court on Monday.

A more extraordinary move has never been made in that tribunal, and, looking at its diplomatic significance, its parallel is not to be found in the annals of diplomacy.

It is nothing less than an appeal by Great Britain from the executive to the judicial department of our government of a diplomatic issue still under diplomatic discussion. It can only be taken as an amazing flank movement of Lord Salisbury which can hardly be reconciled with established diplomatic usage or international courtesy.

This view is amply disclosed by the character of the proceeding. The avowed object is to get the whole Behring Sea dispute before the Supreme Court, to bring under review every question discussed by Mr. Blaine and Lord Salisbury, every point bearing on the issue, and to have the Court decide whether the United States or England is right in its contention.

To accomplish this a writ of prohibition is asked for to annul the judgment of the Alaskan District Court in the case of one of the seized Canadian sealers.

Two petitions are presented. One is by the owner of the vessel. That is merely formal.

The other is signed by Sir John Thompson, Attorney General for the Dominion of Canada, "with the knowledge and approval of the Imperial Government of Great Britain." That is, a petition by the British Government—the same authority represented by Lord Salisbury in the diplomatic controversy.

The petition of the owner of the vessel is regular and legitimate. It shows an aggrieved person seeking redress in a proper channel.

The petition of Great Britain is extraordinary. Its chief purpose cannot be to secure indemnity or protection for individual subjects. The Supreme Court affords in this instance no other or better remedy to the nation than to the subject. In such case it is usual for the person to act for himself.

What Great Britain really seeks is an adjudication of the international right in dispute.

With such a right it is for diplomacy to deal until diplomacy fails. To appeal to another tribunal while diplomatic discussion is still pending is a resort to tactics as inadmissible as they are extraordinary.

It is by no means clear that the Supreme Court will or can review and adjudicate this matter.

But if in view of Monday's development Mr. Blaine should curtly notify Lord Salisbury that this action, unless it be disavowed, will bring the pending diplomatic negotiations to an abrupt end, the English Minister could attribute the result only to his own blunder in permitting, if not authorizing, a move unprecedented in friendly international intercourse and well calculated to arouse national indignation.—N. Y. Herald, Jan. 14.

## RAINFALL FOR 1890.

## From Reports to the Weather Service.

	Inches.
Hawaii—Pepeekeo, Hilo.....	204.88
Hamakua, Rickard.....	108.18
Moore, 300 ft. elev.....	127.54
Overland, 700 ft. ".....	152.85
N. Kohala, Nulii.....	100.16
" " Bond.....	97.74
" " Ostrom.....	96.84
Kailua, Yowell.....	55.86
Volcano House (Maby).....	274.67
Mau—Waibee.....	56.69
Waikapu.....	64.66
Speckelsville.....	36.36
Hamakua.....	57.30
Kula.....	56.46
Oahu—Punahou.....	47.74
Honolulu (town).....	43.82
Kalaokahua.....	38.51
Lower Nuuanu.....	51.03
Upper Nuuanu.....	184.98
Waikiki.....	32.35
Kanai—Kilauea.....	10.74
Lihue.....	74.18
Koloa.....	63.31
Koloa.....	83.13

C. J. LYONS.

In charge of Weather Service.

## CONTEMPT OF COURT.

## Hearing in the Case of John E. Bush—Motion Made for a Discharge of the Rule—Argument of Counsel.

WEDNESDAY, Feb. 11.

The Supreme Court in banco opened at 10 o'clock this morning. Case called was that of John E. Bush to show cause why he should not be adjudged guilty of contempt of Court.

Mr. C. W. Ashford appeared as counsel for respondent, who read a motion to discharge the rule, as follows:

John E. Bush, respondent in this cause, moves the Court that the rule entered against him on the 6th day of February instant, wherein and whereby this respondent is cited to appear before this honorable Court and to show cause why he should not be adjudged in contempt of said Court; may be discharged and that this respondent may be allowed to go free of any further proceedings herein.

And respondent alleges the following grounds for the discharge of said rule, viz.:

1. The act complained of in the petition upon which said rule is based, is not in law a contempt of this Court, for which this Court has power to punish this respondent.

2. This Court cannot legally punish as for a contempt, a publication of the nature of that herein complained of, made in a newspaper and not done in the immediate presence of the Court.

3. No publication out of Court in relation to the Court, or to any of its individual members, amounts in law to a contempt, and the same cannot be punished as such.

4. It is nowhere alleged or intimated in said petition, or in the rule issued in pursuance thereof, that the said publication was made while this honorable Court was sitting as such, nor that said publication was designed or calculated, or had any tendency to obstruct, embarrass or prevent the due administration of justice.

5. If this respondent were in fact the publisher of, or legally responsible for said publication, which he doth in nowise admit to be true, then such a fact and the offense involved therein are matters concerning which this respondent is, by the Constitution and the statute law, entitled to trial by a jury of his peers.

Attorney General Peterson, not being ready, asked for time to prepare a reply to the motion, which request was granted by the Court. An adjournment was made till 1:30 P. M.

The Court convened at 1:35 o'clock in the afternoon, when Mr. Ashford proceeded with his argument. He confined his remarks to reference to the different contempts of Court, the kind under which the respondent's case came and to quoting various authorities on law to substantiate his arguments.

He traced the origin of contempt of Court to an ancient period in the history of the British Isles. He classified the same into the direct and the consequential contempt. By the former the contempt consists of an open insult to the Court, open vituperation, hindrance to the passing of decrees, and disturbance at the time of the session of the Court was being held. Consequential contempt comprised a more indirect contempt, having a tendency to prejudice the Court in the eyes of the jury and people. Cases of direct contempt of Court are not so numerous as the construction contempt, as the latter is styled in later times. The point and pith of his arguments lay in the fact that the Legislature had abolished constructive contempt of Court. Under the constructive contempt the present case undoubtedly was to be classed.

While taking for granted that the publishing of the articles in question before the passage of this law would make the publisher liable to punishment, since the abolishing of the former constructive contempt law, the case was one in which no punishment could be made. If considered a constructive contempt, counsel held that the Court had no authority to punish. Cases were cited showing the case constituted nothing of contempt under the new law. There is nothing in the publication that in any way interferes with the Court, to influence the opinion of jurors, or to bring the Court into contempt. It was worthy of considering whether the publication of the respondent was brought against the Court or against individual members of the Court. It is possible that one or several members of the Court being libeled without the Court being libeled. If the article had been read in Court with the intention of injuring decision of Court or to put it in any disrepute, etc., then that would be a different matter. But no trial was pending, the Court was not in session, the publication had no tendency to interfere with a case then pending, consequently it did not constitute a contempt of Court. In this case it cannot be held the Court was in session or in banco, hence the publication had no tendency whatever of interfering, obstructing or influencing the opinion of the Court. Nothing in the publication had any design to exert influence, consequently could not come under the head of constructive contempt.

Attorney General Peterson argued the case for the Crown. It was thought proper by Department to bring the case as a contempt of the Court. With one exception this is the first time the Court has been

asked to give judgment. Could not distinguish between a judge acting as a judge and the Court. Counsel made one point in classing it as constructive contempt. Reports read by counsel refer only to questions of contempt in the common law. The bill passed by the Legislature was so considered by that body as that nothing should be construed as contempt except what is found on our statutes.

The Court took the case under advisement and adjourned for the day.

## PRIZES AWARDED.

## Mr. C. B. Ripley Gets the First Prize—Committee Appointed to Push Construction of the Building.

At a meeting of the Sailors' Home Society held yesterday forenoon at the Chamber of Commerce, prizes were awarded for the best plans submitted by the competitors at the meeting held last week.

Mr. C. B. Ripley received the first prize of \$200 by a unanimous vote of the members of the society; Mr. Geo. L. Dall received the second prize of \$50; Mr. Harry Mills, the third prize of \$25.

A committee of five, consisting of Messrs. C. M. Cooke, F. A. Schaefer, W. W. Hall, J. F. Hackfeld, J. H. Paty, was appointed to prepare plans and specifications for a building, using Mr. Ripley's plan as a basis; the committee was further authorized to make any change or addition in the plan, the same to be submitted to the society for approval. When the plans are ready, bids will be advertised for the construction of the building.

## New Advertisements.

## Notice of Election.

AT THE ANNUAL MEETING OF THE A. Ewa Plantation Co., held this day, the following officers were elected for the ensuing year:

C. M. Cooke..... President  
J. B. Castle..... Vice-President  
E. D. Tenney..... Secretary  
J. B. Atherton..... Treasurer  
J. H. Paty..... Auditor

The above-named officers also constitute the Board of Directors.  
E. D. TENNEY,  
Secretary E. P. Co.  
Honolulu, Jan. 31, 1891. 2678 1300-1m

## M. S. GRINBAUM &amp; CO.,

(LIMITED).

Honolulu, H. I., and San Francisco, Cal.

M. S. Grinbaum..... President  
C. Bolte, Vice-President and Treasurer  
A. Aschheim..... Secretary  
M. Louisson..... Auditor

M. S. Grinbaum & Co., Limited, Honolulu, H. I., and San Francisco, Cal., has assumed the assets and liabilities of M. S. Grinbaum & Co. and of C. Bolte, and will continue the General Business formerly carried on by those two firms.  
Honolulu, Feb. 3, 1891. 1361 2680-1m

## Notice of Incorporation and Election of Officers.

NOTICE IS HEREBY GIVEN THAT on the 23d day of January, A. D. 1891, the Hawaiian Coffee and Tea Company, Limited, organized as an Incorporated Joint Stock Company; that the articles of association and affidavit required by law have been duly filed in the office of the Minister of the Interior, and the following named persons have been elected officers of the Company:

Tom May..... President  
C. M. Cooke..... Vice-President  
F. A. Schaefer..... Treasurer  
W. W. Hall..... Secretary  
T. W. Hobron..... Auditor

W. W. HALL,  
Secretary Hawaiian Coffee and Tea Co., Ltd.  
Honolulu, Feb. 3, 1891. 1361 2680-3d

## Notice of Election.

AT THE ANNUAL MEETING OF the Kahuku Plantation Company, held this morning, the following officers were re-elected for the ensuing year:

Alexander Young..... President  
John A. Cummins..... Vice-President  
Jas. B. Castle..... Treasurer  
Wm. W. Hall..... Secretary  
C. Bolte..... Auditor

These officers constitute the Board of Directors.  
W. W. HALL,  
Secretary K. P. Co.  
Honolulu, Jan. 31, 1891. 1361 2679-1w

## Kona Coffee and Fruit Company, Ltd.

NOTICE IS HEREBY GIVEN THAT at a meeting of the subscribers of the above named Company held in Honolulu, Oahu, Hawaiian Islands, on January 21, 1891, it was voted to accept the Charter of Incorporation granted by the Hawaiian Government.

Notice is further given that the limit of said Charter is fifty years, and the liability of the stockholders limited to the amount due and unpaid on the shares.

The following officers were elected for the ensuing year:

Chas. L. Hopkins..... President  
T. K. R. Amata..... Vice-President  
Henry Smith..... Treasurer  
W. C. Achi..... Secretary  
John F. Colburn..... Auditor

And the following were elected as Directors: Henry Waterhouse, S. M. Kaanaka and T. K. R. Amata.  
W. C. ACHI,  
Secretary Kona Coffee and Fruit Company, Limited.  
Jan. 21, 1891. 2677-1w 1390-4t

Big G has given universal satisfaction in the cure of Gonorrhea and Gleet. I prescribe it and feel safe in recommending it to all sufferers.  
A. J. STOVER, M.D.,  
Dentist, H.  
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BERNARD, SMITH & Co., Wholesale Agents,  
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## Advertisements.

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141 Days from Liverpool!

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## New Goods

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Cocoa Mats, Kettles,  
Sauce Pans, Fry Pans,  
Bedsteads,  
Fence Wire,  
Sheathing Metal,  
Roofing Iron,  
Cane Knives,  
Cutlery

Sole Leather Trunks,  
White Lead, Red Lead,  
Boiled Linseed Oil,  
Castor Oil, Belling,  
Coal Tar, Water Tanks,  
Fire Brick, Red Brick, Alum,  
Red Ochre, Fire Clay,  
Bags, Twine,  
Filter Cloth,

Soap, Groceries,  
Boots and Shoes,  
Perfumery, Flags,  
Rope Brushes,  
Crocket Sets,  
Dressing Cases,  
Mirrors,  
Saddles

Bridles, Felts, Whips, Spurs,  
Blankets, Sheeting,  
Dry Goods, Merinoes,  
Shawls, Handkerchiefs,  
Victoria Lawns,  
Mosquito Netting, Leggings,  
Laces, Ribbons, Hats, Helmets,  
Velvets, Embroidered Dresses,

Flannel,  
Basket Trunks,  
Picnic Hampers,  
Rugs, Mats, Carpets,  
Clothing, Tweeds,  
Ginghams,  
Hosiery,  
Scarfs,

Suitings in latest styles,  
Underwear, Braces,  
Sofa Pillows,  
Gloves, Flouncing,  
Embroidery, Curtains,  
Table Napkins,  
Table Cloths,  
Water-proof Coats,  
Artificial Flowers,  
Dust Cloaks,  
Pajama Suits,  
Fine Hosiery—Silk, Lisle, Cotton,

Dinner Sets,  
Tea Sets,  
Desert Sets,  
Fancy Crockery,  
Common Crockery,  
Wedgewood Ware,  
Vases,

Wicker Ware, Fancy Chairs,  
Hammocks, Tables, Baskets,  
Umbrella Stands,  
Decanters,  
Salad Bowls,  
Mush Sets,  
Flower Pots,  
Filters,  
Etc., Etc., Etc.

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